

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

3M INNOVATIVE PROPERTIES COMPANY)
and 3M COMPANY,)

Plaintiffs,)

v.)

Civil Action No. 10-459-PJS/SRN

SAFE LIFE CORPORATION and)
TRIOSYN CORPORATION,)

Defendants)

_____)

CONSENT JUDGMENT

The parties having agreed to the following findings of fact and conclusions of law, and having consented to the entry of a judgment embodying those findings and conclusions, the Court accordingly enters this Consent Judgment.

FINDINGS OF FACT

1. Plaintiff 3M Company (“3M”) is a Delaware corporation having its principal place of business at 3M Center, St. Paul, Minnesota 55133-3427. 3M Company is in the business of manufacturing and selling a wide variety of consumer, commercial and industrial products, including filtering face masks and respirators.

2. Plaintiff 3M Innovative Properties Company (“3M IPC”) is a Delaware corporation having its principal place of business at 3M Center, St. Paul, Minnesota 55133-3427. 3M IPC is a wholly-owned subsidiary of 3M and is in the business, *inter alia*, of obtaining, managing and licensing intellectual property.

3. Defendant Safe Life Corp. is a corporation organized under the laws of the State of Delaware, having its principal place of business at 12250 El Camino Real, Suite 350, San Diego, California 92130.

4. Defendant SafeLife/Triosyn Corp. (formerly Triosyn Corp.) is a corporation organized under the laws of the State of Delaware, having its principal place of business at 1191

S. Brownell Road, Williston, Vermont 05495. SafeLife/Triosyn Corp. is a wholly-owned subsidiary of Safe Life.

5. Defendant 3M IPC owns United States Patent No. 6,953,544 (issued October 11, 2005, entitled "Method Of Making A Respirator That Has A Fluorinated Electret"). Defendant 3M owns United States Patent No. 6,119,691 (issued September 19, 2000, entitled "Electret Filter Media") and is the exclusive licensee of the '544 patent.

6. Defendants Safe Life Corp. and SafeLife/Triosyn Corp. (collectively, "Safe Life") manufactured, offered for sale and sold, among other respirator products, certain respirator products in the United States under the names T-3000, T-5000 and T-5000V.

7. Plaintiffs 3M and 3M IPC filed a patent infringement action against Defendant Safe Life, contending that Safe Life's T-5000 and T-5000V respirator products infringe the '544 and '691 patents.

CONCLUSIONS OF LAW

8. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1332 and 1338(a).

9. This Court has personal jurisdiction over the parties for purposes of this action, and venue therefore is proper in this judicial district pursuant to 28 U.S.C. § 1400(b).

10. The issues of patent infringement in this case are hereby finally concluded and disposed of, and this Consent Judgment bars Safe Life from contending in this action or in any other proceeding that T-3000, T-5000 and T-5000V respirators that were manufactured or sold by Safe Life on or before November 1, 2010 do not infringe the '544 and '691 patents.

11. All claims in the '544 and '691 patents are valid and enforceable against all past, present and future Safe Life products.

12. T-3000, T-5000 and T-5000V respirators that were manufactured or sold by Safe Life on or before November 1, 2010 infringe one or more claims of the '544 and '691 patents.

13. This Consent Judgment shall be entitled to issue preclusion, claim preclusion, res judicata and collateral estoppel effect in future litigation or United States Patent and Trademark

Office proceedings relating to the validity or enforceability of the '544 and '691 patents against Safe Life. The Court and the parties explicitly intend such issue preclusion, claim preclusion, res judicata and collateral estoppel effects to extend to the issues of validity and enforceability of any claim of the '544 and '691 patents against Safe Life, whether raised in a court proceeding, USPTO proceeding, re-examination, reissue or other dispute, even in proceedings involving different products in which infringement of the '544 and '691 patents are at issue.

14. Any Conclusion of Law that is deemed to be a Finding of Fact is hereby adopted as such.

ORDER

16. Safe Life and its officers, directors, agents, servants, employees, attorneys, assignees and all persons or entities controlling or in active concert or participation with, through, or under Safe Life are hereby permanently enjoined from making (or having made for them), using, selling, offering to sell, importing and/or exporting respirators that infringe the '544 and '691 patents. This injunction shall extend on a patent-by-patent basis only to the expiration date of each of the respective patents, but shall not apply to claims of the '544 or '691 patents which, after exhausting all appeals and/or petitions, have been held to be invalid or unenforceable in another proceeding.

17. This Court retains jurisdiction over this action for purposes of enforcing this Consent Judgment and the November 1, 2010 Settlement Agreement between the parties.

18. No appeal shall be taken by any party from this Consent Judgment, the right to appeal being expressly waived by all parties.

19. To the extent not specifically addressed herein, all claims, counterclaims and affirmative defenses asserted in this action are dismissed with prejudice. This Consent Judgment concludes this action.

20. The Clerk is directed to enter this Consent Judgment without further notice.

IT IS SO ORDERED.

Dated: 11/11/10

s/Patrick J. Schiltz
THE HONORABLE PATRICK J. SCHILTZ
UNITED STATES DISTRICT COURT

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| Safe Life Corp. and SafeLife/Triosyn Corp. By: <u>/s/ David L. Hashmall</u> Name: David L. Hashmall Attorney for Safe Life Corp. and SafeLife/Triosyn Corp. | 3M Company and 3M Innovative Properties Company By: <u>/s/ John C. Adkisson</u> Name: John C. Adkisson Attorney for 3M Company and 3M Innovative Properties Company |
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